

JUDGE THOMAS IRWIN—WESTERN JUDICIAL DISTRICT
OF PENNSYLVANIA.

LETTER

FROM

JUDGE THOMAS IRWIN,

ADDRESSED TO THE COMMITTEE ON THE JUDICIARY,

RELATIVE TO

*The length of the sessions of the courts of the western judicial district of
the State of Pennsylvania.*

MAY 2, 1856.—Referred to the Committee on the Judiciary, and, together with the memorials of citizens of the western judicial district, ordered to be printed.

PITTSBURG, April 29, 1856.

*To the Judiciary Committee of the House of Representatives of the
United States:*

GENTLEMEN: I received yesterday executive document of your House No. 78, purporting to contain information as to the length of the sessions of the United States courts of this district for the half year ending the 30th of June, 1855. The accounts of the clerks of the courts, containing their *per diem* charges and abstracts of their minutes, are relied upon by the accounting officers as the only evidence of the time of the holding the circuit court and district courts, and heretofore they have been treated as sufficient. Since the passage of the act of 1853, regulating the fees and costs of the officers of said courts, I have officially, as well as in no other way, had any supervision, control, or knowledge of the accounts of these officers, nor have I had at any time any supervision, control, or knowledge of their minutes, except such as are contained in the document referred to, having seen them for the first time yesterday. Against being affected in any way, officially or otherwise, by the accounts and charges of the clerks, or by any matter or entry on their minutes, I most solemnly protest, and will show satisfactory reasons for such action.

The business in the circuit court of this district has been much larger and important than is generally supposed. For the two terms ending in 1855, there were, in law and equity, ninety suits brought, and to May term of this year eighty-four. To dispose of what grew out of this and other previously-pending suits finally and preparatory to

trial, and to prevent daily applications and frequent, if not daily, sessions, as well as for the convenience of the bar and bench, I appointed Wednesdays and Saturdays of each week for sessions of the courts, and it sometimes happened at the hearing of the cases adjournments became necessary ; but, as a check to the clerk, I made an order that, whenever they were applied for, and granted, entries thereof should be made, not only on the minutes, but on the docket of the cases, showing the cause of the motion, and by whom it was made. Nearly a year ago I received a letter from the Comptroller of the Treasury, stating, in substance, that the clerk of the circuit court had charged, for the quarter ending 31st March, 1855, for every day of the quarter, Sundays excepted, and requested me to inform him whether the court had been in session all that time. I replied, in substance, (I kept no copy of the letter,) of the time I had appointed for the sessions of the court, and of the order requiring the entries of adjournments, as above stated, a copy of which would give him the information he sought for, and that I believed the court was not opened every day of the quarter mentioned. I spoke to the clerk on the subject, who informed me that he had not so charged it in his accounts. Upon an examination of the *per diem* charges and of the minutes of that clerk as contained in the document, I find them made to agree. The minutes purport to be abstracts ; but if the original minutes and the records from which the abstracts are taken contain no more than appears in the abstracts, the order of the court respecting the adjournments of the cases heard appears to have been, a few cases excepted, entirely disregarded. The court, in the abstracts, is said to have met from time to time without appointing a meeting or making an adjournment on any other than special days, so that it is impossible to tell for what purpose, cause or causes, or by whose authority, the court assembled or reassembled without previous adjournment.

In several cases an entry is thus made: "The court met; the judge not being in attendance, Marshal Frost adjourned the court." Marshal Frost had never authority from me, or by law, to open or adjourn a court in Pittsburg. When he exercises that power, it must be by virtue of a written order.

Although there always has been a great deal of business in equity in this district, the court was never opened or adjourned for the hearing of equitable causes ; such business was generally transacted at chambers, the clerk being the only officer present, so that the abstract is erroneous in classifying equity causes for days of opening the court.

The circuit court rarely, if ever, met on Tuesdays and Fridays, though many of these days are charged in the clerk's account ; they were special days appointed for the sessions of the district court, and I had made it a rule on these days to do no other business than belonged to that court.

During fifteen days of the month of June I was not in the city of Pittsburg, yet *per diem* charges have been made for more than that time. As, therefore, it is entirely uncertain when the circuit court was actually opened or closed for the half year ending June 30, 1855, I reject every day except the special days appointed by rule, and for them alone can it be said the court was opened.

As regards the district court, Tuesdays and Fridays of each week were appointed for its sessions, the business being chiefly in admiralty. There were occasional, but few, adjournments. Sometimes, but rarely, there was no business done on these days; and as there was no formal opening of the court, there ought to have been, in such cases, no *per diem* charges made. The clerk, in reply to my questions after the receipt of document No. 73, said he had made a mistake in having overcharged his *per diem* account seventy-six days; and it appears by his abstract of minutes, contained in document No. 78, that he certifies for the half year ending June, 1855—that the court was opened but seventy-five days; these days ought to be reduced to sixty-five, yet, by his abstract of charges, page 3 of document, one hundred and fifty-three days are charged. These *per diem* charges were made soon after the end of June, 1855, and the abstract of his minutes were forwarded to the Comptroller on the 26th of February, 1856, as appears by a copy of his letter. The *per diem* charges of one hundred and fifty-three days were forwarded in July, 1855. On the 20th of February, 1856, the abstract of the minutes corrected and supplied the July charges. The only evidence, then, of the district court being opened is the abstract of minutes which superseded the erroneous *per diem* charges which were essentially erroneous; yet, after the Comptroller had been in possession nearly a month of the abstract, he says, in page 4, document No. 73, that “for the half year ending June 30, 1855, the district court was opened one hundred and fifty-three days.”

Nothing more will be required to show the gross injustice of making me responsible for the official acts of the clerks in their charges against the government, or for their entries in their records, and strangely attributing that which may have been a malfeasance in them to me, especially after so much discrepancy as is exhibited between his records and his *per diem* account. With the clerks or any other officer of the court I have not the most distant relationship, connection of any kind, or even intimacy, and no motive of any kind to favor them in any way. The clerk of the district court has been dismissed for his improper return; the clerk of the circuit court is independent of me for his office.

If I had been governed by personal matters, and consulted my own convenience and ease, regardless of my judicial duties, the courts would have been but seldom opened, and in that case there would have been just cause of complaint.

The law appoints the terms of the court, but does not limit their duration; that is necessarily left to the discretion of the judges, to be exercised according to the business to be done. Improper motives may be attributed to him for failing to do that business; but for doing it, or being always ready to do it at necessarily appointed times, is before this an unheard-of matter of censure.

It is, gentlemen, my earnest request that you will institute a minute and searching inquiry relative to the supposed unnecessary prolongation of the courts of this district. I am not willing to suffer an unjust imputation in silence.

Very respectfully, your obedient servant,

TH. IRWIN.

To the House of Representatives of the United States in Congress assembled :

The petition of your subscribers, citizens of the western judicial district of the State of Pennsylvania, respectfully represents—

That Thomas Irwin, the judge of the district court of said district, has committed acts in his judicial station which your petitioners think ought to be inquired into.

Your petitioners are informed that he has appointed his son clerk of the said court when he knew he was incompetent to discharge its duties, and continued him in office when he knew that the duties of the clerkship were grossly neglected, and required of his son no security for the faithful performance of his duties, although the receipts of the clerkship were enormous.

He has received and enforced the payment to himself of large amounts of fees as due to his son from the United States, which he knew the United States ought not to have paid.

He was himself the recipient, during the clerkship of his son, of the fees of the clerkship to an enormous amount.

He conducted the business of the bankrupt court for his own emolument, without regard to the public interest.

He has caused entries to be made in the dockets of the court, of the sittings of the court for long periods, when no court was held, and he was absent at a distance during all the time for the purpose of placing fees in his own pocket.

He has pretended, for his own emolument, to keep open his court at other times from day to day, when for six months at a time no business would be transacted whatever, whereby the government has been subjected to great expense.

He has enforced from marshals and officers of the court the payment to himself of large sums as fees due his son, when no such fees were due, or to which he had no lawful authority.

He has repeatedly, for his own emolument, and to the great expense of government, certified to the keeping open of his court when no court was open, or no business transacted for long periods, and has certified to the government for large amounts of fees when no such fees were due.

He has appointed clerks of the courts over which he presides, with the understanding that he or his family were to receive the fees of office, or large portions thereof, which have been paid to him.

He has entered rules and judgments, and ordered process to compel the payment, for his own emolument, of large amounts of fees, when no such fees could, on any pretence of law, be claimed of the parties oppressed.

He drew out of bank, and used for his own emolument, the funds deposited by order of the court in which he presides.

The following is the list of witnesses by whose testimony the above charges are to be established :

George S. Selden, esq., Pittsburg ; Samuel Hays, esq., Franklin ; Henry Sproul, esq., Pittsburg ; R. Biddle Roberts, esq., Pittsburg ; John Keatty, esq., Strattonville, Clarion county ; Tho. K. Bosler,

esq., Meadville; Alexander Irwin, esq., Pittsburg, or Clearfield, Clearfield county; Thomas Liggitt, esq., Pittsburg; Andrew Wylie, jr., esq., Washington city; Wilson McCandless, esq., Pittsburg.

On behalf of the signers of the petition asking an inquiry into the official conduct of the Hon. Thomas Irwin, judge of the United States district court of the western judicial district of Pennsylvania, I respectfully forward the foregoing charges.

I am your obedient servant,

JAMES DUNLOP.

Hon. JAMES THOMPSON,

Chairman Judiciary Committee, House of Representatives.

To the House of Representatives of the United States in Congress:

The petition of your subscribers, citizens of the western judicial district of Pennsylvania, respectfully represents:

That the widely extended rumors which have long been current of the improper administration of the district court of the United States for said district, and of the misconduct of Hon. Thomas Irwin, who presides in that court, particularly in relation to the fees and charges and costs attending said administration, render it imperative, in our opinion, that the official conduct of that judge should be subjected to legislative investigation. Such scrutiny we think is demanded as well by the state of public opinion, as to vindicate the honor and purity of the bench, in which we are all so deeply interested; and is as equally due to the reputation of the Judge himself.

We pray you, therefore, that a committee be selected with the proper authority to examine the truth of these reports, and to proceed accordingly.

George E. Appleton,
T. J. Bigham,
Alexander M. Watson,
James P. Stenett,
Robert Robb,
John P. Penney,
N. Buckmaster,
David D. Bruce,
R. H. Hawkins,
George F. Gillmore,
H. W. Williams,
B. Scully,
James Dunlop,
O. Metcalf,
A. W. Loomis,
C. O. Loomis,
John A. Wills,
T. McConnell,
Wm. M. Candless,

Sam. Gounly,
Reade Washington,
Robert Woods,
James F. Kerr,
John Glenn,
W. V. Leslie,
T. Williams,
James J. Kulm,
F. C. Flanegin,
T. J. Foxold,
Quincy A. Brooks,
James Callan,
Wm. M. Shinn,
Joseph Weaver,
George P. Hamilton,
George R. Riddle,
E. Heidelberg,
Robert Arthurs.

